

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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DAVID C. LETTIERI,

Plaintiff,

v.

3:23-CV-1099  
(GTS/ML)

FEDERAL BUREAU OF INVESTIGATION;  
RANDALL E. GARVER; MICHAEL  
HOUTEWATER; JENULLE BRIGUAL; PAUL E.  
BONINNO; ERIC SCMIDIT; STATE TROOPER;  
STATE TROOPER JOHN DOE; LEON BROWN;  
BROOME COUNTY SHERIFF; BENJAMIN  
HARTING; DAVID GASKU; KAREN MUTSON;  
BROOME COUNTY HUMANE SOCIETY;  
FBI DOES #1 – #8; BROOME COUNTY SHERIFF  
DOE #1; BROOME COUNTY SHERIFF DOE #2;  
BRUDLEY GUINNESS; and WYOMING COUNTY  
SHERIFFS,

Defendants.

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APPEARANCES:

DAVID C. LETTIERI, 16091-509

Plaintiff, *Pro Se*

DEVENS F.M.C.

Inmate Mail/Parcels

P.O. Box 879

Ayer, Massachusetts 01432

GLENN T. SUDDABY, United States District Judge

**DECISION and ORDER**

Currently before the Court, in this *pro se* civil rights action filed by David C. Lettieri (“Plaintiff”) against the above-captioned entities and individuals (collectively “Defendants”) claiming illegal search and seizure of property, is United States Magistrate Judge Miroslav

Lovric's Report-Recommendation recommending that Plaintiff's unlawful-search-and-seizure claim against Defendant Garver under the Fourth Amendment be permitted to proceed but that all remaining claims in Plaintiff's Amended Complaint be dismissed without prejudice and without leave to amend. (Dkt. No. 32.) Plaintiff has not filed an Objection to the Report-Recommendation, and the time in which to do so has expired. (*See generally* Docket Sheet.)

After carefully reviewing the relevant papers herein, including Magistrate Judge Lovric's thorough Report-Recommendation, the Court can find no clear error in the Report-Recommendation:<sup>1</sup> Magistrate Judge Lovric employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons stated therein as modified by the following "so ordered" paragraphs.

**ACCORDINGLY**, it is

**ORDERED** that Magistrate Judge Lovric's Report-Recommendation (Dkt. No. 32) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

**ORDERED** that Plaintiff's unlawful-search-and-seizure claim against Defendant Garver in his individual capacity under the Fourth Amendment **SURVIVES** the Court's *sua sponte* review of Plaintiff's Amended Complaint, and requires a response (after service); and it is further

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<sup>1</sup> When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a "clear error" review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; see also *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at \*1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).

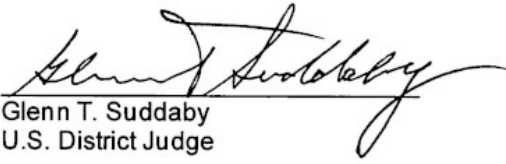
**ORDERED** that Plaintiff's other claims against Defendants Federal Bureau of Investigation Agents (and Defendant Federal Bureau of Investigation) be **DISMISSED without prejudice** but **without leave to amend** during the pendency of this proceeding; and it is further

**ORDERED** that Plaintiff's claims against Defendants New York State Troopers be **DISMISSED without prejudice** to refiling in the New York State Court of Claims within the applicable limitations period; and it is further

**ORDERED** that the remaining claims in Plaintiff's Amended Complaint (Dkt. No. 22) are **DISMISSED without leave to amend** during the pendency of this proceeding **except** upon the filing of a successful motion to amend (and **with prejudice** after the conclusion of this proceeding if no such successful motion is filed); and it is further

**ORDERED** that the Clerk of Court is directed to issue Summonses and forward them, along with copies of the Amended Complaint, to the U.S. Marshal for service upon Defendant Garver, and Defendant Garver is directed to respond in accordance with the Federal Rules of Civil Procedure.

Dated: July 21, 2025  
Syracuse, New York

  
Glenn T. Suddaby  
U.S. District Judge